



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2018-0077; FRL-9979-61-Region 4]

Air Plan Approval and Air Quality Designation; AL; Redesignation of the Pike County Lead Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 3, 2018, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Troy 2008 lead Nonattainment Area (“Troy Area” or “Area”) to attainment for the 2008 lead (Pb) National Ambient Air Quality Standards (NAAQS or standard) and to approve an associated State Implementation Plan (SIP) revision containing a maintenance plan. The Troy Area is comprised of a portion of Pike County in Alabama surrounding the Sanders Lead Company facility (Sanders Lead Facility or Facility). EPA is taking the following final actions related to the January 3, 2018, redesignation request and SIP revision: determining that the Troy Area is attaining the 2008 lead NAAQS; approving the SIP revision containing the State’s maintenance plan for maintaining attainment of the 2008 lead standard; and redesignating the Troy Area to attainment for the 2008 lead NAAQS.

DATES: This rule is effective [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0077. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ashten Bailey of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Bailey may be reached by phone at (404) 562-9164 or via electronic mail at bailey.ashten@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR part

50, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$. *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Troy Area as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007-2009 ambient air quality data. The Troy Area is comprised of the portion of Pike County, Alabama, bounded by a 0.8 mile radius from a center point at latitude 31.78627106 North and longitude 85.97862228 West, which fully includes the Sanders Lead Facility, the only point source of lead emissions in the Area. EPA's designation established an attainment date five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Troy Area's attainment date was December 31, 2015.

On January 3, 2018, Alabama requested that EPA redesignate the Troy Area to attainment for the 2008 lead NAAQS and submitted an associated SIP revision containing a maintenance plan for the Area. In a notice of proposed rulemaking (NPRM) published on April 13, 2018 (83 FR 16021), EPA proposed to take three separate but related actions: (1) to determine that the Troy Area is attaining the 2008 lead NAAQS based on complete, quality-assured, and certified ambient monitoring data for the 2014-2016 time period; (2) to approve Alabama's maintenance plan for maintaining the 2008 lead NAAQS in the Area through the year 2028 and incorporate the plan into the SIP; and (3) to redesignate the Area to attainment.¹ No relevant comments were received on the April 13, 2018, proposed rulemaking. The details of

¹ In the NPRM, EPA noted that 2014-2016 data was the most recent quality-assured and certified data and that preliminary 2017 data indicated that the Area continued to attain the standard. Since publication of that document, ADEM certified complete, quality-assured data for 2017. The 2015-2017 design value for the Area is $0.09 \mu\text{g}/\text{m}^3$.

Alabama's submittal and the rationale for EPA's actions are further explained in the NPRM. *See* 83 FR 16021 (April 13, 2016).

II. What are the Effects of These Actions?

Approval of Alabama's redesignation request changes the legal designation of the portion of Pike County, Alabama, that is designated as nonattainment as the Troy Area, found at 40 CFR 81.301, from nonattainment to attainment for the 2008 lead NAAQS. Approval of Alabama's associated SIP revision also incorporates a plan into the SIP for maintaining the 2008 lead NAAQS in Pike County (the Troy Area), Alabama, through 2028.

III. Final Action

EPA is taking a number of final actions regarding Alabama's January 3, 2018, request to redesignate the Troy Area to attainment and associated SIP revision. First, EPA is determining that the Area is attaining the 2008 lead NAAQS based on 2014-2016 data. Second, EPA is approving the maintenance plan for the Area and incorporating it into the SIP. Third, EPA is approving Alabama's request for redesignation of the Area from nonattainment to attainment for the 2008 lead NAAQS. As mentioned above, approval of the redesignation request changes the official designation of the Troy Area from nonattainment to attainment for the 2008 lead NAAQS.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new

requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA.

Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals and redesignations are exempted under Executive Order 12866;
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after

it is published in the Federal Register. These actions are not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: June 8, 2018.

Onis “Trey” Glenn, III

Regional Administrator,

Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52 —APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart B—Alabama

2. Section 52.50(e), is amended by adding an entry for “2008 Lead Maintenance Plan for the Troy Area” at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
**	**	*	*	*
2008 Lead Maintenance Plan for the Troy Area	Troy Area	1/3/2018	[Insert date of publication in <u>Federal Register</u>], [Insert Federal Register citation]	

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. In § 81.301, the table entitled “Alabama—2008 Lead NAAQS” is amended under “Troy, AL:” by revising the entry for “Pike County (part)” to read as follows:

§ 81.301 Alabama.

* * * * *

Alabama—2008 Lead NAAQS

Designated area	Designation for the 2008 NAAQS ^a	
	Date ¹	Type
Troy, AL:		
Pike County (part) Area is bounded by a 0.8 mile radius from a center point at latitude 31.78627106 North and longitude 85.97862228 West, which fully includes the Sanders Lead facility.	<u>[Insert date of publication in the Federal Register]</u>	Attainment
**	***	**

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ December 31, 2011 unless otherwise noted.

[FR Doc. 2018-13147 Filed: 6/19/2018 8:45 am; Publication Date: 6/20/2018]